

STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT

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_____))
IN THE MATTER OF: ALVIN JOSEPH BOUTTE, Jr.) File No. 1100227
_____))
_____))

Consent Order

TO THE RESPONDENT: Alvin Joseph Boutte, Jr. CRD No. 2739783
505 N. Lake Shore Dr., Apt 511
Chicago, IL 60611

C/o Michael Hayes and Brian Martin
K & L Gates LLP
70 W. Madison St., Suite 3100
Chicago, IL 60602

WHEREAS, Respondent, Alvin Joseph Boutte (hereinafter "Respondent" or "Boutte") executed a certain Stipulation To Entry Consent Order (the "Stipulation"), which hereby is incorporated by reference herein.

WHEREAS, by means of the Stipulation, the Respondent has admitted to the jurisdiction of the Secretary of State and service of the Notice of Hearing and Amended Notice of Hearing in this matter and the Respondent has consented to the entry of this Consent Order.

WHEREAS, the Secretary of State, by and through his designated representative, the Securities Director, has determined that the matter related to the aforesaid formal hearing may be dismissed without further proceeding.

WHEREAS, the Respondent has acknowledge and agreed, without admitting or denying the truth thereof, that the following allegations shall be adopted as the Secretary of State's Findings of Fact, solely for the purposes of these proceedings and any other proceedings brought by or on behalf of the Secretary of State:

Consent Order

- 2 -

1. The Respondent was employed by Grigsby and Associates, Inc. ("Grigsby and Associates") an Illinois registered Dealer, from February 6, 2007 to September 21, 2011.
2. Grigsby and Associates is a currently registered securities Dealer in the State of Illinois and according to its web site is a "full-service investment banking firm providing financial advisory and investment banking services to state and local governments and corporations."
3. In the State of Illinois, this included financial services related to bond offerings by State of Illinois agencies and municipalities including the Illinois Student Assistance Commission (ISAC).
4. Until September 21, 2011, Boutte was located in the Chicago Office of Grigsby and Associates as its Managing Director. Grigsby and Associates was responsible for supervising Boutte.
5. Sometime in October 2007, Boutte and Grigsby and Associates began preparing an Offering Analysis regarding an investment by ISAC to purchase restricted stock in ShoreBank Corporation (SBC), the bank holding company for ShoreBank.
6. ShoreBank during the relevant time period, was a State bank registered with the Division of Banking, Department of Financial and Professional Regulation in the State of Illinois.
7. At all times relevant, SBC was not a publically traded company on any exchange but rather was a privately held corporation. Its securities were not registered with the Illinois Securities Department nor the Securities and Exchange Commission and relied upon exemptions from registration provided by State and Federal Securities laws. These exemptions restricted the manner and type of sales of SBC securities and therefore reduced their liquidity.

Consent Order

- 3 -

8. The Illinois Student Assistance Commission is a State agency whose mission is to administer and manage various college student financial assistance programs including "College Illinois!" a prepaid tuition program under Section 529 of the Internal Revenue Code and authorized by the Illinois Prepaid Tuition Act, 110 ILCS 979/1 et seq.
9. The intent of the prepaid tuition program as set forth in the Illinois Prepaid Tuition Act is to: "...both encourage and better enable Illinois families to help themselves finance the cost of higher education, specifically through a program that provides Illinois families with a method of State tax-free and federally tax-exempt savings for higher education." 110 ILCS 979/5.
10. The majority of College Illinois! prepaid contracts are purchased by parents or grandparents for their children or grandchildren.
11. As a prepaid tuition program, College Illinois! invests and manages an investment fund of about \$1.35 billion used to pay tuition for students who are the beneficiaries of prepaid tuition contracts through the Illinois Prepaid Tuition Trust Fund (the "College Illinois! Fund").
12. Most of the assets of the College Illinois! Fund are invested and managed by third party outside investment advisers who contract with ISAC to provide financial services as investment advisers and fund managers.
13. ISAC investment policy was amended in 2008 to allow investments in private equity such as the SBC investment. The investment policy required a prudence opinion and an Offering Analysis by an independent Financial Adviser.
14. Boutte and Grigsby and Associates were retained by ISAC to prepare an independent Prudence Opinion and Offering Analysis for the SBC investment by ISAC.

Consent Order

- 4 -

15. The first version of an Offering Analysis relating to an investment in SBC is dated January 3, 2008. The January 3, 2008 Offering Analysis stated as follows:

"This analysis was prepared by Grigsby & Associates inc. ("Grigsby") at the request of Illinois Student Assistance Commission as part of its assessment of an investment in The ShoreBank Corporation ("ShoreBank" or "Company"). Our objective is to highlight the value and risks of participating in the ShoreBank Corporation Offering referenced herein, and commenting on the appropriateness of the pricing of that investment."

16. After the January 3, 2008 Offering Analysis, Boutte began revising this report and submitted two revised Offering Analyses. The first revised Offering Analysis was dated June 6, 2008 and was submitted to ISAC approximately June 24, 2008. A third revised analysis was dated September 9, 2008 and submitted to ISAC on September 11, 2008.
17. On August 6, 2008, the ISAC board approved an investment in two installments in SBC subject to the conditions of a term sheet for the investment which included a completion of a legal review and prudence opinion. The first investment of \$12,712,500 was funded and completed on September 30, 2008 to purchase a combination of common and preferred shares in SBC.
18. Substantial portions of the financial analysis sections of all three versions of the Offering Analysis were prepared by a third person who did not have a written contract with Boutte or Grigsby and Associates and who was not an employee, and this person was paid \$50,000 from the fee paid by ISAC to Grigsby and Associates.
19. After approval of the investment by the ISAC commissioners, several significant events took place that should have resulted in Boutte advising ISAC not to invest in SBC as follows:

Consent Order

- 5 -

- a. Approximately, August 28, 2008, ShoreBank executives informed Boutte that ShoreBank had missed its financial performance projections. Grigsby and Associates and Boutte failed to properly advise ISAC of the significance of this financial setback.
 - b. In all three versions of Grigsby and Associates' Offering Analysis it was stated and statistics provided regarding bank failures in the United States writing that only 3 banks had failed in the last 3 year period of 2005-2007; and
 - c. By September 8, 2008, the date of Grigsby and Associates' last Offering Analysis, 10 banks in the U.S. had failed and by September 30, 2008, the date of the ISAC investment in SBC, 13 banks had failed.
20. In August of 2010, ShoreBank was closed by the FDIC resulting in the loss by ISAC of its investment in SBC.
 21. At the request of ISAC, Grigsby and Associates and Boutte submitted two prudence opinion letters in September 2008, which stated that the investment represented a prudent investment on the part of ISAC. One of these prudence opinion letters was signed by Boutte.
 22. After the closing of the SBC investment on September 30, 2008, Boutte submitted an invoice for his and Grigsby and Associates' work on the Offering Analysis. The invoice was not itemized and did not provide any accounting of time nor services rendered by Boutte or any other representative of Grigsby and Associates on the Offering Analysis. Rather, the amount requested was a contingent fee which referenced the investment amount of \$12,780,000 and a formula of 2% of the invested amount resulting in a final fee of \$255,600. ISAC paid Grigsby and Associates this total fee amount sometime in December of 2008.

Consent Order

- 6 -

23. On September 2, 2011, the Illinois Securities Department (the "Department") pursuant to its authority under Section 11 of the Illinois Securities Act issued a subpoena for testimony and records to Boutte with an appearance and response date of September 21, 2011 at 10:00 A.M. at the Department's Chicago Office (the "Subpoena").
24. Boutte failed to appear at this subpoena for sworn testimony and documents on September 2, 2011 as required.
25. As an investment adviser to the Illinois Student Assistance Commission, Boutte and Grigsby and Associates had a duty to ISAC and the College Illinois! Fund to provide investment advice and recommendations that were in the best interests of their clients, ISAC and the College Illinois! Fund.
26. Boutte and Grigsby and Associates breached their duty to ISAC and the College Illinois! Fund by:
 - a. Failing to prepare a complete and accurate Offering Analysis and prudence opinion that fairly and objectively evaluated the prudence of the SBK investment consistent with the overall goals and objectives of the College Illinois! Fund; and
 - b. After the investment was closed, entering into a contingent fee arrangement for financial advisory services that was based upon the amount invested and would result in Boutte and Grigsby and Associates receiving payment only if the investment that Boutte was analyzing and advising upon was made by ISAC and the College Illinois! Fund, his clients.
27. The letters issued by Boutte and Grigsby and Associates did not include:
 - a. Material information about the prudence of the SBK investment consistent with the overall

Consent Order

- 7 -

goals and objectives of the College Illinois! Fund; and

- b. A separate disclosure to ISAC that a subcontractor performed substantial amount of the work under Grigsby and Associates' contract and was paid or would be paid \$50,000.

WHEREAS, The Respondent has acknowledged and agreed, without admitting or denying the truth thereof, that the following shall be adopted as the Secretary of State's Conclusions of Law solely for the purposes of these proceedings and any other proceedings brought by or on behalf of the Secretary of State:

1. That by virtue of the foregoing the Respondent has violated sections 12.A and D of the Illinois Securities Law of 1953 815 ILCS 5/1 ("the Act").
2. That by virtue of the foregoing the Respondent's registration is subject to a suspension or revocation pursuant to Section 8.E.1(g) and (m) of the Act.
3. That Section 8.E.3 of the Act provides, *inter alia*, that the Secretary of State may institute a revocation or suspension proceeding within two years after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.
4. That Section 11.E(2) of the Act provides, inter alia, that if the Secretary of State shall find that any person has violated subsection D of Section 12 of the Act, the Secretary of State may by written order prohibit the person from offering or selling any securities or providing investment advice in this State.
5. That Section 11.E(4) of the Act provides, inter alia, that if the Secretary of State, after finding that any provision of the Act has been violated, may impose a fine as provided by rule, regulation or order not to exceed \$10,000.00 for each violation of the Act.

Consent Order

- 8 -

6. That by virtue of the foregoing, Alvin Joseph Boutte is subject to a fine of up to \$10,000.00 per violation, an order of censure an order which permanently prohibits the Respondent from offering or selling securities or providing investment advice in the State of Illinois and an order that suspends or revokes his salesperson registration in the State of Illinois.

NOW THEREFORE IT IS HEREBY ORDERED THAT:

1. The foresaid allegations contained in the Stipulation shall be and are hereby adopted as the Secretary of State's Findings of Fact and Conclusions of Law.
2. The Respondent's registration in the State of Illinois as a salesperson shall be suspended from September 21, 2011 through January 2, 2012.
3. The Respondent shall pay a fine of \$15,000 within forty-five days of the date of entry of the Consent Order.
4. The Respondent shall be subject to heightened supervision by his employer during the time he is employed by that employer and registered in any capacity with the Illinois Securities Department for a period of 12 Months from the date of this Consent Order, the material terms of which are set forth in the form Heightened Supervision Agreement attached hereto.
5. The Respondent shall retake and pass the Series 7 and Series 63 exams within four months of the date of entry of the Consent Order. Boutte shall notify the Department when he has passed these exams. If Boutte does not pass these exams within four months of the date of entry of the Consent Order, this will be a basis for suspension of his registration as a salesperson in the State of Illinois until he passes these exams. Additionally, should Boutte engage in

Consent Order

- 9 -

investment banking in the State of Illinois he shall take and pass the Series 79 exam before engaging in any investment banking transactions on behalf of third parties.

6. This Consent Order concludes the investigation by the Illinois Securities Department and any other action that the Illinois Securities Department could commence under applicable Illinois law as it relates to Boutte's activities based on facts presently known to the Illinois Securities Department. In the event that the Illinois Securities Department discovers new facts, then it has the right to commence a new investigation.
7. The Notice of Hearing in this matter is dismissed.

ENTERED: This 6th day of January, 2012.



JESSE WHITE
Secretary of State
State of Illinois

NOTICE: Failure to comply with the terms of this Order shall be a violation of Section 12(D) of the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act"). Any person or entity who fails to comply with the terms of this Order of the Secretary of State, having knowledge of the existence of this Order, shall be guilty of a Class 4 felony.

Attorney for the Secretary of State
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